IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 25354 of 1999

Between:

S.V.V.S.N. Murty S/o S. Ramakrishna, Contingent part time

Employee, CTO, Rajahmundry-533 101.

..... PETITIONER

AND

1 The Superintendent In-Charge, Central Telegram Office,
Rajahmundry - 533 101.
2 The Gentral Manager, East Godavari Telecom District,
Rajahmundry-533 150.
3 The Chief General Manager, Telecom, (representing Union of India),
Hyderabad-AP 500 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly a writ in the nature of certiorari calling for the entire records relating to the impugned order dated 24-07-97 in O.A.No. 513 of 1995 on the file of the Hyderabad Bench of the Hon'ble Central Administrative Tribunal (on 1st Floor of HACA Bhavan, Opposite to Police Central Room, Hyderabad-500 004) and quash the same declaring that the petitioner is entitled to be converted as full time Casual Mazdoor soon after he completed 2 years service as part-time worker and also entitled to absorption in the regular establishment as a Group-D employee according to his turn in the seniority list of full

time Casual Mazdoors in accordance with the orders of the Department of Telecommunications read with the judgment in AIR 1987 SC 2342 (mentioned in the affidavit) and the unreported judgment of the Apex Court dt. 17-04-90 in W.P. (C) No. 1280 of 1989 and batch of cases, besides granting him arrears of salary for the period of his employment as per the mandate of the Hon'ble Supreme Court, besides awarding exemplary costs and advocates' fee.

Counsel for the Petitioner: MR.C.SURYANARAYANA

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CENTRAL GOVERNMENT)

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by the Central Administrative Tribunal (for brevity Tribunal) in O.A.No.513 of 1995, dated 20.4.1997.

2. The petitioner filed the above OA seeking suitable directions to the respondents to treat the applicant as Full Time Casual Mazdoor and for such orders as deemed fit and proper by the Tribunal.

3. It is the case of the petitioner that he was appointed as contingent worker. His further case is that though similarly situate persons were regularized in service and are now working on regular basis, his services were not regularized and therefore the petitioner was meted out with indiscriminate treatment offending Article 14 of the Constitution of India. Therefore, the order of the Tribunal is liable to be set aside.

4. We have heard the learned counsel for the petitioner and Mr.A.Rajasekhara Reddy, learned Standing Counsel for Central Government.

5. The Tribunal has considered the contentions raised by the petitioner, which reads as follows:

> "The applicant was engaged as a contingent worker until 10.4.1994 whereafter he duly agreed to discharge duties on part-time basis through the medium of a proper agency. He has been functioning on that basis from 1.10.1985 and is received Rs.400/- per month for the work performed by him. Based on the facts and averments of the case and the disclosures made in the counter-affidavit it is not found possible to grant the reliefs as prayed for by the applicant since he cannot be regarded as a full time casual mazdoor in the revealed context of the nature, medium and duration of his engagement and the wages received for the work performed by him. It is therefore only directed that, until the respondents evolve effective alternate modes of securing adequate man-power for the types of work which are now hired out to the agency, or initiate fresh recruitment of regular employees,

as the case may be, the present arrangement shall continue.

It is further directed that, should the respondents decide to continue the agency system, the past experience and association of the applicant should be given due consideration and his case should be considered sympathetically for the purpose of entrustment of work to an agency, to the extent possible, in future as well".

6. The petitioner was obviously engaged and went into the fold of an agency from 1985 and he appears to have performed the work through the agency only. Under those circumstances the Tribunal protected the interest of the petitioner directing that so long as the respondents continue the agency system, the past experience and association of the petitioner should be given due consideration and his case should be considered sympathetically for the purpose of entrustment of work through an agency.

7. The learned counsel for the petitioner, however, tried to submit that the decision rendered by this Court in Writ Petition No.9775 of 1988, dated 8.11.1989 will apply in all fours to the facts of this case and therefore the petitioner is entitled for the relief as prayed for. The petitioner in the above case engaged as contract labour under the provisions of Contract Labour (Abolition and Absorption) Act, 1970 and therefore the said case has no bearing on the facts of the case on hand. Thus, we do not find any ground to interfere with the order of the Tribunal.

8. In the result, the Writ Petition is dismissed. No costs.

G.BIKSHAPATHY, J.

31st January, 2005.

P.S.NARAYANA, J.

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Superintendent In-Charge, Central Telegram Office,
Rajahmundry - 533 101.
2 The Gentral Manager, East Godavari Telecom District,
Rajahmundry-533 150.
3 The Chief General Manager, Telecom, (representing Union of India),
Hyderabad-AP 500 001.

4 The Registrar, Central Administrative Tribunal, Hyderabad.

5 2 CCs to Mr.A.Rajasekhar Reddy, Standing Counsel for Central

Government, High Court of A.P. Hyderabad. (OPUC)

6 2 CD copies.